

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

RANDALL RAY MARTINO,
Petitioner,

Case No. 6:17-cv-00925-MK
ORDER

vs.

CHRISTINE POPOFF, Superintendent,
Oregon State Correctional Institution,

Respondent.

AIKEN, District Judge:

Magistrate Judge Mustafa Kasubhai filed his Findings and Recommendations (“F&R”) (doc. 54) recommending that petitioner’s Petition for Writ of Habeas Corpus (doc. 2) be dismissed with prejudice. This case is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge’s F&R, the district court must make a *de novo* determination of that portion of the magistrate judge’s report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*

Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982). Petitioner has filed timely objections. (doc. 56) Thus, I review the F&R *de novo*.

Having considered the record and the arguments offered by petitioner, the Court finds no error in Magistrate Judge Kasubhai's analysis. Therefore, the Court adopts the F&R (doc. 54) in part. Thus, the Petition for Writ of Habeas Corpus (doc. 2) is DISMISSED, with prejudice.

However, in considering petitioner's objections, the Court grants the request for a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). (If a court denies a habeas petition, the court may issue a certificate of appealability if "jurists of reason could disagree with the district court's resolution of [the petitioner's] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.")

IT IS SO ORDERED.

Dated this 27th day of May, 2020.

/s/Ann Aiken
Ann Aiken
United States District Judge